

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

RICHARD WATERHOUSE,

Plaintiff,

v.

CIV. 13-1230 MV/GBW

ROBERT STEWART, *et al.*,

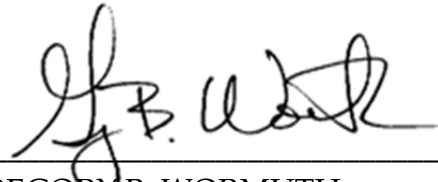
Defendants.

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

This matter comes before the Court pursuant to Plaintiff's Motion for Certification of a Class Action and Appointment of Counsel. *Doc. 10*. Plaintiff is a *pro se* prisoner incarcerated at the Otero County Prison Facility (OCPF) in Chaparral, New Mexico. *Doc. 1* at 1. On December 26, 2013, Plaintiff filed the instant action under 42 U.S.C. § 1983 for violations of his civil rights that allegedly took place when he and eleven fellow prisoners were transported from Northeast New Mexico Detention Facility to OCPF on July 24, 2013. *Doc. 1* at 2.

Plaintiff seeks to initiate a class action suit under Federal Rule of Civil Procedure 23. *Doc. 10* at 1. In support of his Motion, Plaintiff states that he "is (1) one out of (11) eleven other inmates involved in this matter, and all the inmates involved were subjected to [the] same treatment." *Id.*

Having considered Plaintiff's motion and the relevant law, I recommend that his Motion for Class Action Certification be denied. "Under Rule 23(a)(4), a class representative must 'fairly and adequately protect the interests of the class.' A litigant may bring his own claims to federal court without counsel, but not the claims of others. This is so because the competence of a layman is 'clearly too limited to allow him to risk the rights of others.' " *Fymbo v. State Farm Fire and Cas. Co.*, 213 F.3d 1320, 1321 (10th Cir. 2000) (quoting *Oxendine v. Williams*, 509 F.2d 1405, 1407 (4th Cir. 1975)). Because Plaintiff does not meet the requirements of Federal Rule of Civil Procedure 23, I recommend that the Court deny this motion.



GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE

THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 14 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1). A party must file any objections with the Clerk of the District Court within the fourteen-day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.